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SUBJECT: Staffdel Winters in Argentina - Piracy and Television
Producers

REF: Buenos Aires 350

¶1. (U) This document is sensitive but unclassified. It should not be disseminated outside of USG channels or in any public forum without the written concurrence of the originator. It should not be posted on the Internet.

Summary

¶2. (SBU) Staffdel Winters visited Argentina May 26-27 for meetings and events focusing on intellectual property issues and business operations of U.S. companies and subsidiaries in the television broadcast sector. The delegation attended a conference on fighting piracy and counterfeiting that was organized jointly by the GoA and private sector featuring the head of the Supreme Court, the Minister of Production, and officials from four neighboring countries. Discussions of a proposed media law, which would significantly affect U.S. television producers and broadcasters operating in Argentina, highlighted questions about the law's content, but also doubts about its passage in the near future. Staffdel also discussed piracy issues with industry reps and received briefings from Emboffs on the proposed media law and law enforcement operations against piracy and counterfeiting in Argentina. End Summary.

GoA Co-Hosts "Fight against Piracy" Conference

¶3. (U) The most significant event during the Staffdel visit was a conference entitled the "First International Seminar on the Fight against Falsification and Piracy," where Argentine Supreme Court President (Chief Justice) Ricardo Lorenzetti and Production Minister Debora Giorgi provided opening remarks. The conference was presented jointly by the GoA's Federal Administration of Public Revenue (AFIP, IRS-equivalent) and an NGO called the Argentine Association of the Fight against Piracy (AALP). The conference also featured the heads of both AFIP and Argentine Customs, as well as high-ranking representatives of the Customs or tax authorities of Uruguay, Brazil, Chile and Paraguay. AFIP and the AALP signed a memorandum of cooperation during the conference, but the AALP Vice President told Econoff on June 2 that the text was still being vetted by the GoA, adding that the intent was to increase private sector cooperation with AFIP and Customs to achieve better protection of trademarks in imports and exports.

¶4. (SBU) Chief Justice Lorenzetti focused on property rights in general, commenting that his "presence supports this event and the importance of creating public security." Minister Giorgi noted that a lack of respect for IP rights discourages investment, and stressed both the importance of innovation for job creation, and of "social

inclusion" in the GoA's economic policy. AFIP Administrator Ricardo Echegaray highlighted Argentine Customs' trademark fraud interdiction program, noting that USD 138 million in counterfeit goods had been seized since the program began in March 2007 (when he was Customs Director). He called the program the GoA's biggest anti-counterfeiting effort ever. Some Argentine private sector speakers noted concerns about La Salada market (highlighted in USTR's 2009 Special 301 report as the largest venue for the sale of IP-violating products in Argentina), but GoA officials did not refer to it in their remarks. Pablo Gonzalez Suau, the Legal Sub-Director of the Chilean tax authority, said that "IP violations are not simply a threat against private property, but even more of a threat against the rule of law and the government's ability to guarantee the safety of its citizens." The event received wide press coverage, with articles in three major dailies and two other online news sources (including GoA news agency TELAM).

"Media Law" Expected to Cause Problems - If It Passes

15. (SBU) In addition to a briefing by Emboffs on potentially negative free speech implications of a proposed audiovisual law (reftel), Staffdel Winters heard from the private sector on how the law could affect operations of U.S. businesses in the broadcasting sector. Roxana Kahale (PROTECT), an attorney who represents the Television Association of Programmers (TAP, which includes Disney, FOX, MTV, and Turner as members), expressed strong concern over several aspects of the draft law. She questioned both the purpose and the real impact of anti-trust provisions, complained that some versions of the bill would severely restrict cable advertising (the current source of about 50% of revenue for distributors), pointed out a discriminatory tax on gross revenue of non-domestic (as

defined by amount of local content used) firms and a vaguely defined "social tariff" to be assessed on cable operators, and noted that there were no provisions in the bill to prevent cable piracy or cable operators re-transmitting satellite feeds to subscribers. She also noted that numerous aspects of the law were vague or would be defined later by an appointed board, and said that when she had discussed some of those with a Secretariat of Communications

official, the official told her that some of the provisions would be applied in a more innocuous way than the draft law seems to be written. According to Kahale, the first thing the official said in that conversation was, "This is not a Chavista law."

16. (SBU) The Staffdel visited the studios of MTV, Disney, and Fox. Each of the firms has grown rapidly in recent years, and is optimistic for the future despite expecting difficult economic conditions in Argentina during 2009. None of the three firms were particularly negative about the audiovisual law, because they see little chance of it passing. (Their perspective on the legislation's content was mixed; they saw many provisions as problematic, but others as potentially positive, depending on the provision and the individual company's business operations.) Adrian Herzkovich (PROTECT), Vice President of Fox Latin American Channels, noted that a proposal to revise or replace the existing media law tended to come up every couple of years, and none of them had ever passed. He doubted that anything as controversial as the current draft could pass given the current divided political scene.

Piracy, Counterfeiting, and the Tri-Border

17. (SBU) Staffdel also had meetings to discuss piracy in Argentina, with a particular focus on activity in the Tri-Border Area (TBA) where Argentina meets Paraguay and Brazil. CAPIF (The Argentina Chamber of the Phonographic Industry) Executive Director Javier Delupi (PROTECT) discussed piracy issues with Staffdel on May 26, but argued that it made little or no economic sense to produce pirated music CDs in Paraguay for sale in and around Buenos Aires.

18. (SBU) Movie industry reps indicated that the same is probably true for pirated DVDs, but noted that their anti-piracy efforts were facing an uncertain future. Alejandra Gonzalez Presedo (PROTECT),

Vice President of Walt Disney Latin America, told Staffdel on May 26 that the Motion Picture Agency (MPA) had ceased full-time operations in Argentina as of January 1, 2009, and that a coalition of local studios (including subsidiaries of U.S. studios, such as Disney) was trying to re-initiate action. However, Gonzalez Presedo said that it was proving difficult to find much funding in their current budgets, and said more direction from company headquarters would be essential for efforts to be effective.

¶9. (SBU) Juan Carlos Alesina (PROTECT), MPA's representative in Argentina until the office closed in January, said on May 26 that they had been actively investigating about 300 legal cases per year.

Of the 300 cases during his tenure that had resulted in criminal convictions, he pointed out that only 10 of those convicted had actually gone to jail, all of whom had previous criminal charges. He noted that this raises questions about the deterrent effect of current penalties. Alesina expressed doubt that the IP environment will improve given the lack of political will. He stated that the GoA currently doesn't see increased IP protection in the clear interest of Argentina, but might be willing to do so in an international negotiation, perhaps in exchange for improved market access for Argentine exports.

¶10. (SBU) The Immigration and Customs Enforcement (ICE) Attache at post also briefed the Staffdel on ICE's operations in the IP area, noting that there was significant traffic in pirated and counterfeit products through Argentina (usually originating in Asia) to Paraguay and on to Brazil, but also from Paraguay into Argentina. (Argentine trademark-holders at the anti-piracy conference claimed that many counterfeits of their products, particularly clothing, were imported from Paraguay and Bolivia.)

Comment

¶11. (SBU) Argentina has been on USTR's Special 301 Priority Watch List for 14 consecutive years, based on lack of effective protection for copyright, trademarks, and patents. At the root of this problem, @S`U;>

SQ=uring Staffdel Winters' meetings, is a lack of political will to address those problems. Minister Giorgi's comments during the conference suggest a reason for the lack of political will - that while protecting innovation may be

seen positively in the long term, policies of "social inclusion" make implementing them difficult at present, as informal vendors of illegal goods would be put out of business. The conference, however, showed public GoA support for fighting IP violations at a higher level than has been in evidence in several years. When the smoke clears from the June 28 mid-term Congressional elections, we may have a better sense of whether the speeches represented a new, more serious GOA approach to IP protection.

¶12. (U) This cable was cleared by Staffdel Winters.

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